



Agenda Date: 3/21/02
Agenda Item: 4F

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION FOR AN)	<u>ORDER OF APPROVAL</u>
ORDER AUTHORIZING 4CONNECTIONS, LLC)	
TO PROVIDE LOCAL EXCHANGE AND)	
INTEREXCHANGE TELECOMMUNICATIONS)	
SERVICES THROUGHOUT NEW JERSEY)	DOCKET NO. TE02010035

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter date January 8, 2002, 4Connections, LLC (Petitioner or 4Con) filed a petition with the Board of Public Utilities (Board) requesting authority to provide local exchange and interexchange services throughout the State of New Jersey. 4Con included a completed Staff questionnaire in their filing. 4Con also responded to Staff interrogatories by letters dated February 8, 2002, February 12, 2002, and February 15, 2002. Petitioner requested confidential treatment of the financial information in Exhibit D of its petition and the Operating Agreement enclosed with its February 12, 2002 letter.

According to the petition, Petitioner was formed under the laws of the State of New Jersey on October 15, 2001. Petitioner's principal offices are located at 75 Claremont Avenue, Suite 205, Bernardsville, NJ 07924. Petition at 4.

Petitioner submitted copies of its Certificate of Formation and its New Jersey Certificate of Good Standing. Petition at 4, Exhibit B. According to the petition, 4Con was formed to provide local exchange and interexchange services. Petition at 1. Petitioner is a new company and is not currently authorized to provide facilities-based or resold local exchange or interexchange services in any state. 4Con advised that it has not been denied authority to provide telecommunications services in any state. In addition, 4Con indicated that it has no pending civil, criminal or administrative actions against it.

4Con advised that it is not currently negotiating any interconnection agreements.

In its petition, Petitioner advised that it seeks authority to offer local exchange and interexchange telecommunications services to business customers throughout New Jersey. Its services will initially include, but not be limited to fiber connectivity to commercial users who require fiber connectivity between their facilities. 4Con will provide services through a combination of its own facilities, facilities leased from other carriers, and the resale of the facilities of other carriers. Petition at 6.

Petitioner requested a waiver of N.J.A.C. 14:10-1.16, which requires that its books and records be maintained in accordance with the Uniform System of Accounts (USOA). Petitioner requested, in the interest of efficiency and to prevent undue burden, permission to maintain its books and records in accordance with Generally Accepted Accounting Principles (GAAP). Petition at 5.

Petitioner asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petition at 6. Petitioner also asserted that approval of this petition will provide New Jersey customers access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings. In addition, Petitioner stated that approval of its petition will enhance the telecommunications infrastructure in the State of New Jersey and will facilitate economic development. Petition at 7.

With regard to its technical and managerial qualifications, 4Con stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petition at 4. Petitioner submitted the professional biographies of its key personnel who, according to 4Con, are well qualified to execute its business plans, and have extensive managerial and technical experience in the telecommunications industry. Petition at 4, Exhibit C.

Petitioner has submitted, as evidence of its financial qualifications its most recent financial statements, and will need to file two years pro forma income statements and balance sheets for its New Jersey operations, prior to approval of its tariff.

The Division of the Ratepayer Advocate has not yet commented on this petition.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's decision that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4): N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed 4Con's petition and the information supplies in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources, which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange and interexchange telecommunications services in New Jersey subject to approval of its tariff and the submission of pro forma financial statements for its New Jersey operations. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements have been provided.

Regarding the Petitioner's request for waivers of Board rules, the Board FINDS that the Petitioner had demonstrated good cause why the Board should grant relief from its requirements that Petitioner maintain its books and records under the USOA. Therefore, the Board APPROVES Petitioner's request for the exemption from maintaining its books and records under the USOA.

Regarding the Petitioner's request for confidential treatment of the financial information submitted as Exhibit D of the petition and the Operating Agreement in its February 12, 2002 letter, the Board FINDS that the Petitioner has shown good cause, pursuant to N.J.A.C. 1:1-14.1, that this information merits protection from disclosure in order to prevent competitive harm to the Petitioner. Therefore, the Board DIRECTS that this financial information be kept under seal.

DATED: 3/22/02

BOARD OF PUBLIC UTILITIES
BY:

(signed)
JEANNE M. FOX
PRESIDENT

(signed)
FREDERICK F. BUTLER
COMMISSIONER

(signed)
CAROL J. MURPHY
COMMISSIONER

(signed)
CONNIE O. HUGHES
COMMISSIONER

ATTEST:

(signed)
REGINALD D. JOHNSON
ACTING BOARD SECRETARY